

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA  
  
v.  
  
CHRISTOPHER ROBERT TEJEDA.

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Crim. Action No. SA-15-CR-791-XR

**ORDER**

On this date the Court considered the Magistrate Judge's Memorandum and Recommendation (docket no. 95) concerning Defendant Christopher Robert Tejeda's notice of appeal in this case. The Magistrate Judge recommends that the Court find that the untimely filing of the notice of appeal was not due to excusable neglect or good cause. *Id.* at 4. After careful consideration, the Court ACCEPTS the Magistrate Judge's recommendation.

When a party objects to the Magistrate Judge's memorandum and recommendation, the Court is required to conduct a *de novo* review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). However, when no objections are filed, the Court reviews the recommendation for clear error or findings contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.) *cert. denied*, 492 U.S. 918 (1989). The Magistrate Judge's recommendation was docketed on January 25, 2016. Docket no. 95. No objections have been filed in this case and the time for doing so has expired. Therefore, the Court reviews the recommendation for clear error.

The Court has reviewed the Memorandum and Recommendation and finds that it is neither clearly erroneous nor contrary to law. *Wilson*, 864 F.2d at 1221. Rule 4(b)(1)(A)(i) of

the Federal Rules of Appellate Procedure requires that a criminal defendant file his or her notice of appeal within fourteen days of entry of the judgment or order from which appeal is taken. Fed. R. App. P. 4(b)(1)(A)(i). Defendant's deadline for filing a timely notice of appeal was June 1, 2015, and Defendant's counsel did not file the notice of appeal until June 5, 2015. Docket no. 79. While Rule 4(b)(4) allows the district court to grant an additional thirty days upon a finding of excusable neglect or good cause, in this case, Defendant's counsel has provided no excuse or good cause for the delay.

Accordingly, the Court ACCEPTS the Magistrate Judge's recommendation and finds that the notice of appeal was untimely filed. The Clerk is directed to send a copy of this order to the Fifth Circuit Court of Appeals for its consideration.

It is so ORDERED.

SIGNED this 16th day of February, 2016.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', is written over a horizontal line.

XAVIER RODRIGUEZ  
UNITED STATES DISTRICT JUDGE